

Senate File 488

S-3115

1 Amend Senate File 488 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 455B.133, subsection 8,  
5 paragraph a, Code 2015, is amended to read as follows:

6 a. (1) Adopt rules consistent with the federal  
7 Clean Air Act Amendments of 1990, Pub. L. No. 101-549,  
8 including those amendments effective on January 1,  
9 1991, regulations promulgated by the United States  
10 environmental protection agency pursuant to that Act,  
11 the provisions of this chapter, and rules adopted by  
12 the commission pursuant to this chapter, which require  
13 the owner or operator of an air contaminant source  
14 to obtain an operating permit prior to operation of  
15 the source. The rules shall specify the information  
16 required to be submitted with the application for a  
17 an operating permit and the conditions under which a  
18 permit may be granted, modified, suspended, terminated,  
19 revoked, reissued, or denied. For sources subject to  
20 the provisions of Tit. IV of the federal Clean Air  
21 Act Amendments of 1990, operating permit conditions  
22 shall include emission allowances for sulfur dioxide  
23 emissions.

24 (2) (a) The commission may ~~impose~~ establish  
25 fees to be imposed and collected by the department,  
26 including operating permit application fees and  
27 fees upon regulated pollutants emitted from an air  
28 contaminant source, in an amount sufficient to cover,  
29 on a state fiscal year basis as described in section  
30 455B.133B, all reasonable costs, direct and indirect,  
31 required to ~~develop~~ implement and administer the  
32 operating permit program as described in subparagraph  
33 (1) in conformance with the federal Clean Air Act  
34 Amendments of 1990, ~~Pub. L. No. 101-549.~~ Affected  
35 units regulated under Tit. IV of the federal Clean Air  
36 Act Amendments of 1990, ~~Pub. L. No. 101-549,~~ shall  
37 pay ~~operating permit~~ fees in the same manner as other  
38 sources subject to operating permit requirements,  
39 except as provided in section 408 of ~~the federal~~ that  
40 Act.

41 (b) The fees collected by the department pursuant  
42 to ~~this subsection~~ subparagraph division (a) shall  
43 be ~~deposited in~~ credited to the appropriate accounts  
44 of the air contaminant source fund created pursuant  
45 to section 455B.133B, and shall be utilized ~~solely~~  
46 to cover all reasonable costs required to ~~develop~~  
47 implement and administer the programs required by Tit.  
48 V of the federal Clean Air Act Amendments of 1990, ~~Pub.~~  
49 ~~L. No. 101-549,~~ including the operating permit program  
50 pursuant to section 502 of ~~the federal~~ that Act and

1 the small business stationary source technical and  
2 environmental assistance program pursuant to section  
3 507 of ~~the federal~~ that Act. The amount of the fees  
4 credited to and expended from each account of the  
5 air contaminant source fund shall be subject to the  
6 limitations provided in section 455B.133B.

7 (c) Fees established pursuant to this subparagraph  
8 (2) shall not be imposed for the regulation of an  
9 activity that exceeds the requirements of the federal  
10 Clean Air Act Amendments of 1990.

11 Sec. 2. Section 455B.133B, Code 2015, is amended to  
12 read as follows:

13 455B.133B Air contaminant source fund created —  
14 fees and appropriations.

15 1. As used in this section, unless the context  
16 otherwise requires:

17 a. "Federal Clean Air Act Amendments of 1990"  
18 means Pub. L. No. 101-549, including those amendments  
19 effective on January 1, 1991, regulations promulgated  
20 by the United States environmental protection agency  
21 pursuant to that Act, the provisions of this chapter,  
22 and rules adopted by the commission pursuant to this  
23 chapter.

24 b. "State fiscal year" means the fiscal year  
25 described in section 3.12.

26 2. An air contaminant source fund is created in  
27 the office of the treasurer of state under the control  
28 of the department. The fund shall be composed of  
29 an air emission fee account and an operating permit  
30 application fee account as provided in this section.

31 1. ~~Moneys received from the fees assessed pursuant~~  
32 ~~to section 455B.133, subsection 8, shall be deposited~~  
33 ~~in the fund.~~

34 2. ~~Moneys in the fund shall be used solely to~~  
35 ~~defray the costs related to the permit, monitoring,~~  
36 ~~and inspection program, including the small business~~  
37 ~~stationary source technical and environmental~~  
38 ~~compliance assistance program required pursuant to~~  
39 ~~the federal Clean Air Act Amendments of 1990, section~~  
40 ~~502, Pub. L. No. 101-549, and as provided in section~~  
41 ~~455B.133A.~~

42 3. In establishing fees to be imposed and collected  
43 by the department pursuant to section 455B.133,  
44 subsection 8, the commission shall use the calculated  
45 estimate described in this section. The fees collected  
46 pursuant to section 455B.133, subsection 8, shall  
47 be credited to the fund. The fund may include any  
48 other moneys appropriated by the general assembly or  
49 otherwise available to and obtained or accepted by the  
50 department for deposit in the fund.

1     4. a. The commission shall establish each fee  
2 amount based on the department's calculated estimate of  
3 total revenues from all fees predicted to be credited  
4 to each account in the fund, but not to exceed a  
5 ceiling amount for each account as provided in this  
6 section. However, this subsection does not require  
7 that an account have a zero ending balance at the close  
8 of a state fiscal year.

9     b. Each state fiscal year the department shall  
10 recompute its calculated estimate and obtain approval  
11 from the commission if an established fee amount must  
12 be adjusted.

13     c. (1) The department shall annually convene a  
14 Title V fees stakeholder meeting. The department  
15 shall provide a report on the fees and budgets to  
16 the stakeholders. The department shall consider any  
17 recommendations of the stakeholders when computing its  
18 calculated estimate for the following state fiscal  
19 year.

20     (2) A person invited to attend a stakeholder  
21 meeting is not entitled to receive a per diem as  
22 specified in section 7E.6 and shall be not reimbursed  
23 for expenses incurred while attending the meeting.

24     5. a. The air emission fee account shall include  
25 all fees established by the commission to be imposed  
26 and collected by the department for emission fees for  
27 regulated pollutants submitted by major sources as  
28 defined in section 502 of the federal Clean Air Act  
29 Amendments of 1990, 42 U.S.C. §7661, and as defined in  
30 567 IAC ch. 22.

31     b. (1) The department's calculated estimate  
32 for the air emission fee account shall be computed  
33 to produce total revenues sufficient to pay for  
34 reasonable direct and indirect costs of implementing  
35 and administering the operating permit program as  
36 provided in section 455B.133, subsection 8, on a state  
37 fiscal year basis.

38     (2) The reasonable direct and indirect costs  
39 described in subparagraph (1) shall be limited to all  
40 of the following:

41     (a) General administrative costs of administering  
42 the operating permit program, including the supporting  
43 and tracking of operating permit applications,  
44 compliance certification, and related data entry.

45     (b) Costs of implementing and enforcing the terms  
46 of an operating permit, not including any court costs  
47 or other costs associated with an enforcement action,  
48 including adequate resources to determine which sources  
49 are subject to the program.

50     (c) Costs of emissions and ambient site-specific

1 monitors.

2 (d) Costs of Title V source-specific modeling,  
3 analyses, or demonstrations.

4 (e) Costs of preparing inventories and tracking  
5 emissions.

6 (f) Costs of providing direct support to sources  
7 under the small business stationary source technical  
8 and environmental compliance assistance program as  
9 provided in section 455B.133A.

10 (3) The department shall not include in its  
11 computations for a calculated estimate, and the  
12 commission shall not establish fees, for greenhouse gas  
13 emissions as defined in 40 C.F.R. §70.12.

14 c. The department's calculated estimate for the air  
15 emission fee account shall not produce total revenues  
16 in excess of eight million two hundred fifty thousand  
17 dollars during any state fiscal year.

18 d. (1) Moneys in the air emission fee account  
19 are appropriated to the department to pay for the  
20 reasonable direct and indirect costs specified in  
21 paragraph "b", subparagraph (2).

22 (2) Notwithstanding subparagraph (1), moneys in  
23 the air emission fee account are also appropriated  
24 to the department to pay for costs associated with  
25 implementing and administering regulatory activities,  
26 including programs, provided for in division II of  
27 this chapter, other than costs covered by any of the  
28 following:

29 (a) Operating permit application fees credited  
30 to the operating permit application fee account as  
31 provided in subsection 6.

32 (b) New source review application fees credited to  
33 the major source account of the air quality fund as  
34 provided in section 455B.133C, subsection 5.

35 (c) New source review application fees credited to  
36 the minor source account of the air quality fund as  
37 provided in section 455B.133C, subsection 6.

38 (d) Notification fees credited to the asbestos  
39 account of the air quality fund as provided in section  
40 455B.133C, subsection 7.

41 6. a. The operating permit application fee account  
42 shall include all fees established by the commission  
43 to be imposed and collected by the department for  
44 accepting applications for operating permits submitted  
45 by major sources as defined in section 502 of the  
46 federal Clean Air Act Amendments of 1990, 42 U.S.C.  
47 §7661, and as defined in 567 IAC ch. 22.

48 b. (1) The department's calculated estimate for  
49 the operating permit application fee account shall  
50 be computed to produce total revenues sufficient to

1 provide for the reasonable direct and indirect costs  
2 of implementing and administering operating permit  
3 programs described in paragraph "a".

4 (2) The reasonable direct and indirect costs  
5 described in subparagraph (1) shall be limited to all  
6 of the following:

7 (a) Costs of reviewing and acting on any  
8 application for an operating permit or operating permit  
9 revision.

10 (b) General administrative costs of administering  
11 the operating permit program, including the supporting  
12 and tracking of operating permit applications and  
13 related data entry.

14 c. The department's calculated estimate for the  
15 operating permit application fee account shall not  
16 produce total revenues in excess of one million two  
17 hundred fifty thousand dollars during any state fiscal  
18 year.

19 d. Moneys in the operating permit application fee  
20 account are appropriated to the department to pay for  
21 reasonable direct and indirect costs specified in  
22 paragraph "b", subparagraph (2).

23 7. a. The commission or department shall not  
24 transfer moneys credited from one account to another  
25 account of the fund.

26 b. Notwithstanding section 8.33, any unexpended  
27 balance in the an account of the fund at the end of  
28 each state fiscal year shall be retained in the fund  
29 that account.

30 c. Notwithstanding section 12C.7, any interest and  
31 earnings on investments from money moneys in the fund  
32 an account of the fund shall be credited to the fund  
33 that account.

34 **Sec. 3. NEW SECTION. 455B.133C Air quality fund**  
35 **— fees and appropriations.**

36 1. As used in this section, unless the context  
37 otherwise requires:

38 a. "Federal Clean Air Act Amendments of 1990" means  
39 the same as defined in section 455B.133B.

40 b. "State fiscal year" means the fiscal year  
41 described in section 3.12.

42 2. An air quality fund is created in the office  
43 of the treasurer of state under the control of the  
44 department. The fund shall be composed of a major  
45 source account, a minor source account, and an asbestos  
46 account as provided in this section.

47 3. The commission may establish fees to be imposed  
48 and collected by the department upon air contaminant  
49 sources required by 567 IAC ch. 22, 31, or 33, to  
50 obtain a permit, registration, template, or permit by

1 rule, or to provide notification under 567 IAC 23.1(3).  
2 In establishing the fees, the commission shall use the  
3 calculated estimate described in this section. The  
4 fees collected shall be credited to the fund. The  
5 fund may include any other moneys appropriated by the  
6 general assembly or otherwise available to and obtained  
7 or accepted by the department for deposit in the fund.

8 4. a. The commission shall establish each fee  
9 amount based on the department's calculated estimate of  
10 total revenues from all fees predicted to be credited  
11 to each account in the fund, but not to exceed a  
12 ceiling amount for each account as provided in this  
13 section. However, this subsection does not require  
14 that an account have a zero ending balance at the close  
15 of a state fiscal year.

16 b. Each state fiscal year the department shall  
17 recompute its calculated estimate and obtain approval  
18 from the commission if an established fee amount must  
19 be adjusted.

20 c. (1) The department shall annually convene air  
21 quality fees stakeholder meetings. The department  
22 shall provide a report on the fees and budgets to  
23 the stakeholders regarding each account described  
24 in this section. The department shall consider any  
25 recommendations of the stakeholders when computing its  
26 calculated estimate for the following state fiscal  
27 year.

28 (2) A person invited to attend a stakeholder  
29 meeting is not entitled to receive a per diem as  
30 specified in section 7E.6 and shall be not reimbursed  
31 for expenses incurred while attending the meeting.

32 5. a. The major source account shall include all  
33 fees established by the commission to be imposed and  
34 collected by the department for accepting applications  
35 for new source review permits including permit  
36 revisions submitted by major sources as defined in  
37 section 502 of the federal Clean Air Act Amendments of  
38 1990, 42 U.S.C. §7661, under new source review programs  
39 pursuant to that federal Act, including as provided  
40 under 567 IAC ch. 22, 31, and 33.

41 b. (1) The department's calculated estimate for  
42 the major source account shall be computed to produce  
43 total revenues sufficient to pay for reasonable direct  
44 and indirect costs of implementing and administering  
45 new source review programs described in paragraph "a"  
46 on a state fiscal year basis.

47 (2) The reasonable direct and indirect costs  
48 described in subparagraph (1) shall be limited to all  
49 of the following:

50 (a) Reviewing and acting on any application for a

1 new source review permit, including the determination  
2 of all applicable requirements and dispersion modeling  
3 as part of the processing of a permit or permit  
4 revision, or an applicability determination.

5 (b) General administrative costs of administering  
6 new source review programs including supporting and  
7 tracking of any application for a new source review  
8 permit and related data entry.

9 (c) (i) Developing and implementing an expedited  
10 new source review permit application process.

11 (ii) Additional fees associated with subparagraph  
12 subdivision (i).

13 c. (1) The department's calculated estimate for  
14 the major source account shall not produce total  
15 revenues in excess of one million five hundred thousand  
16 dollars during any state fiscal year.

17 (2) Notwithstanding subparagraph (1), the  
18 department's calculated estimate for the major source  
19 account shall not include the additional fees described  
20 in paragraph "b", subparagraph (2), subparagraph  
21 division (c), subparagraph subdivision (ii).

22 d. Moneys in the major source account are  
23 appropriated to the department to pay for reasonable  
24 direct and indirect costs of implementing and  
25 administering new source review programs as specified  
26 in paragraph "b", subparagraph (2).

27 6. a. The minor source account shall include  
28 all fees established by the commission to be imposed  
29 and collected by the department for accepting  
30 applications submitted by minor air contaminant  
31 sources for construction permits or for providing for  
32 registrations, permits by rule, or template permits in  
33 lieu of obtaining construction permits, under minor  
34 source new source review programs pursuant to the  
35 federal Clean Air Act Amendments of 1990, including as  
36 provided under 567 IAC ch. 22.

37 b. (1) The department's calculated estimate for  
38 the minor source account shall be computed to produce  
39 total revenues sufficient to pay for reasonable direct  
40 and indirect costs of implementing and administering  
41 minor source new source review programs as described in  
42 paragraph "a" on a state fiscal year basis.

43 (2) The reasonable direct and indirect costs  
44 described in subparagraph (1) shall include costs  
45 associated with a new, modified, or existing minor air  
46 contaminant source, and related control equipment.

47 c. The department's calculated estimate for the  
48 minor source account shall not produce total revenues  
49 in excess of two hundred fifty thousand dollars during  
50 any state fiscal year.

1 d. Moneys in the minor source account are  
2 appropriated to the department to pay for reasonable  
3 direct and indirect costs of implementing and  
4 administering minor source new source review programs  
5 as specified in paragraph "b".

6 7. a. The asbestos account shall include all  
7 fees established by the commission to be imposed and  
8 collected by the department for accepting notifications  
9 involving demolition or renovation projects under the  
10 asbestos national emission standard for hazardous air  
11 pollutants program pursuant to 567 IAC ch. 23.

12 b. The department's calculated estimate for the  
13 asbestos account shall be computed to produce total  
14 revenues sufficient to pay for reasonable direct and  
15 indirect costs of implementing and administering the  
16 asbestos national emission standard for hazardous air  
17 pollutants program as provided in paragraph "a" on a  
18 state fiscal year basis.

19 c. The department's calculated estimate for the  
20 asbestos account shall not produce total revenues in  
21 excess of four hundred fifty thousand dollars during  
22 any state fiscal year.

23 d. Moneys in the asbestos account are appropriated  
24 to the department to pay for reasonable direct and  
25 indirect costs of implementing and administering the  
26 asbestos national emission standard for hazardous air  
27 pollutants program as specified in paragraph "b".

28 8. Fees established pursuant to this section shall  
29 not be imposed for the regulation of an activity that  
30 exceeds the requirements of the federal Clean Air Act  
31 Amendments of 1990.

32 9. a. The commission or department shall not  
33 transfer moneys credited from one account to another  
34 account of the fund.

35 b. Notwithstanding section 8.33, any unexpended  
36 balance in an account of the fund at the end of each  
37 state fiscal year shall be retained in that account.

38 c. Notwithstanding section 12C.7, any interest and  
39 earnings on investments from moneys in an account of  
40 the fund shall be credited to that account.

41 Sec. 4. EFFECTIVE DATE OF FEES. Notwithstanding  
42 section 455B.133B, as amended in this Act, or section  
43 455B.133C, as enacted in this Act, the environmental  
44 protection commission may establish a designated fee  
45 effective on and after January 1, 2016. A designated  
46 fee is limited to a fee required under this Act to be  
47 credited to any of the following funds or accounts:

48 1. For the air contaminant source fund, the  
49 operating permit application fee account as provided  
50 in section 455B.133B, subsection 6, as enacted in this

1 Act.  
2 2. For the air quality fund, any of the following:  
3 a. The major source account as provided in section  
4 455B.133C, subsection 5, as enacted in this Act.  
5 b. The minor source account as provided in section  
6 455B.133C, subsection 6, as enacted in this Act.  
7 c. The asbestos account as provided in section  
8 455B.133C, subsection 7, as enacted in this Act.  
9 Sec. 5. CONTINUING EFFECTIVENESS OF EXISTING  
10 FEES. Any fee established by the environmental  
11 protection commission pursuant to section 455B.133,  
12 subsection 8, which is in effect immediately prior to  
13 the effective date of this Act shall remain in effect  
14 and shall be subject to the provisions of this Act.  
15 The fee amount for such a fee in effect immediately  
16 prior to the effective date of this Act shall remain  
17 in effect until such fee amount is adjusted by the  
18 commission as provided in this Act.  
19 Sec. 6. TRANSFER OF MONEYS. Any moneys remaining  
20 in the air contaminant source fund, as created in  
21 section 455B.133B, on the effective date of this Act,  
22 shall be transferred to the air emission fee account  
23 established within the air contaminant source fund as  
24 provided in this Act.  
25 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being  
26 deemed of immediate importance, takes effect upon  
27 enactment.>  
28 2. Title page, by striking lines 2 and 3 and  
29 inserting <establishment, imposition, and collection  
30 of fees, the creation or administration of funds  
31 and programs, making appropriations, and including  
32 effective date provisions.>  
33 3. By renumbering, redesignating, and correcting  
34 internal references as necessary.

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